

# Calendar No. 1950

86TH CONGRESS  
2d Session

SENATE

REPORT  
No. 1880

## MAJ. EDMUND T. COPPINGER

AUGUST 22, 1960.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

### REPORT

[To accompany H.R. 9432]

The Committee on the Judiciary, to which was referred the bill (H.R. 9432) for the relief of Maj. Edmund T. Coppinger, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE

The purpose of the proposed legislation is to waive the limiting provisions of the act of October 9, 1940 (31 U.S.C. 71a) so as to permit Maj. Edmund T. Coppinger of Harrisburg, Pa., to file within 1 year his claim for lump-sum payment under section 2 of the act of June 16, 1936, as amended (10 U.S.C. 300a), and have it considered in accordance with other applicable provisions of law.

#### STATEMENT

Edward T. Coppinger was appointed a second lieutenant in the Officers Reserve Corps of the Army on January 15, 1929. On April 6, 1941, he was called to active duty as a first lieutenant in the Army Air Corps and served on active duty until November 11, 1946, when he was released from active duty as a Reserve captain. Although he had requested to remain on active duty, he was released due to his age and grade at the time.

Section 2 of the act of June 16, 1936, as amended (10 U.S.C. 300a), referred to in the bill, provides as follows:

Whenever any Air Corps Reserve Officer who has not been selected for commission in the Regular Army is released from active duty that has been continuous for one or more years, he shall be paid a lump sum of \$500 for each complete year of active service as such officer, and if released from active duty otherwise than upon his own request, or as a result of inefficient or unsatisfactory service as determined by the Secretary of the Army, such lump-sum payment shall be prorated for fractional parts of each year of such active service. The lump-sum payments authorized by this section shall be in addition to any pay, allowances, compensation, or benefits which such officers may otherwise be entitled to receive \* \* \*.

Under this act Major Coppinger was entitled to a lump-sum payment of \$500 a year for the period of April 6, 1941, to November 11, 1946, amounting to \$2,801.37. Even though the act states that "he shall be paid," Major Coppinger never received that payment and his subsequent application for payment was turned down because the 10-year statute of limitations had run.

The Comptroller General is opposed to the enactment of this legislation on the basis that any legislation which waives the statute in any situation establishes an undesirable precedent for all affected persons to seek similar legislative relief and could lead eventually to the undermining of the salutary principle of limitation of the time within which claims against the United States may be filed.

The committee recognizes that the position taken by the Comptroller General is a very tenable one, however, the Department of the Army in approving the enactment of this bill, pointed out the fact that it is not generally opposed to legislation designed to pay an established claim which is barred solely as a result of the expiration of the statutory period for filing, when no prejudice to the Government has resulted from the delay.

The committee is inclined to agree with the conclusions reached by the Department of the Army. We feel that this sum should have been paid Major Coppinger and the Government has been placed at no disadvantage, in this particular situation, if he is now allowed to file his claim.

Therefore, the committee recommends that this bill be considered favorably.

Attached hereto and made a party hereof are the letters from the Department of the Army and the Comptroller General of the United States to the chairman of the House Judiciary Committee.

DEPARTMENT OF THE ARMY,  
Washington, D.C., May 20, 1960.

HON. EMANUEL CELLER,  
*Chairman, Committee on the Judiciary,*  
*House of Representatives.*

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to H.R. 9432, 86th Congress, a bill for the relief of Maj. Edmund T. Coppinger. The Secretary of Defense has assigned to the Department of the Army the responsibility for the preparation of a report thereon.

This bill provides as follows:

"That the provisions of the act entitled 'An Act providing for the barring of claims against the United States', approved October 9, 1940 (31 U.S.C. 71a), are hereby waived in favor of Major Edmund T. Coppinger, of Harrisburg, Pennsylvania, with respect to his claim for lump-sum payment under section 2 of the Act of June 16, 1936, as amended (10 U.S.C., 1952 edition, sec. 300a), if such claim is filed with the General Accounting Office within the one-year period which begins on the date of enactment of this Act."

The Department of the Army on behalf of the Department of Defense has no objection to the enactment of this bill.

Records of the Department of the Army reveal that Edmund T. Coppinger was born on July 14, 1908, at Scranton, Pa. He was appointed a second lieutenant in the Officers' Reserve Corps of the Army of the United States on January 15, 1929, and was called to active duty as a first lieutenant in the Army Air Corps on April 6, 1941. The claimant served on active duty until November 11, 1946, when he was released from active duty as a Reserve captain. Although the claimant requested to remain on active duty he was released due to his age and grade at that time. He was subsequently tendered an appointment as a captain in the Air Force Reserve on October 21, 1952, and presently holds the grade of a major, Air Force Reserve.

Section 2 of the act of June 16, 1936, as amended (10 U.S.C. 300(a), 1952 ed.) provides as follows: "Whenever any Air Corps Reserve Officer who has not been selected for commission in the Regular Army is released from active duty that has been continuous for one or more years, *he shall be paid a lump sum of \$500 for each complete year of active service as such officer, and if released from active duty otherwise than upon his own request, or as a result of inefficient or unsatisfactory service as determined by the Secretary of the Army, such lump-sum payment shall be prorated for fractional parts of each year of such active service. The lump-sum payments authorized by this section shall be in addition to any pay, allowances, compensation, or benefits which such officers may otherwise be entitled to receive \* \* \*.*" [Emphasis supplied.] Under the provisions of this section Major Coppinger was entitled to a lump-sum payment of \$500 per year for the period of April 6, 1941, to November 11, 1946. However, records of the Department of the Army show that he never received the payment to which he was entitled.

On April 23, 1957, Major Coppinger wrote to the Air Adjutant General stating that it had recently been called to his attention that he might be entitled to the \$500 per year lump-sum payment for his prior active service in the Army Air Corps. He subsequently filed a claim on November 19, 1957, with the Finance Center, U.S. Army, which was forwarded to the General Accounting Office for consideration. On January 20, 1958, Major Coppinger was informed by the General Accounting Office that his claim was not payable due to the provisions of the act of October 9, 1940 (31 U.S.C. 71(a)), which bar any claim against the United States which is not received in the General Accounting Office within 10 full years after it accrued.

The Department of the Army generally is not opposed to legislation designed to pay an established claim which is barred solely as a result of the expiration of the statutory period for filing, when no prejudice to the Government has resulted from the delay. As Major Coppinger should have received the \$500 per year lump-sum payment at the time of his release from active duty, and would be paid the amount due him except for the fact that his claim was not filed within the statutory period, no prejudice to the Government has resulted from his inaction. Accordingly, the Department of the Army on behalf of the Department of Defense has no objection to the enactment of this bill.

The cost of this bill, if enacted, will be \$2,801.37.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

WILBER M. BRUCKER,  
*Secretary of the Army.*

COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, February 3, 1960.*

Hon. EMANUEL CELLER,  
*Chairman, Committee on the Judiciary,*  
*House of Representatives.*

DEAR MR. CHAIRMAN: Your letter of January 14, 1960, acknowledged January 15, requests our comments on H.R. 9432 for the relief of Maj. Edmund T. Coppinger.

On August 23, 1957, we received a claim from Major Coppinger for a lump-sum payment for services during World War II as a member of the Officers' Reserve Corps. This claim was based upon the provisions of section 2 of the act of June 16, 1936, 49 Stat. 1524, as amended by section 6 of the Army Aviation Cadet Act of June 3, 1941, 55 Stat. 240, providing for payment to Air Corps Reserve officers upon release from active duty in certain cases of a lump sum of \$500 for each year of active service as an Air Corps Reserve officer. Major Coppinger's claim accrued on the date of his release from active duty, November 11, 1946, and the claim was not received in this Office until August 23, 1957, or more than 10 years after it had accrued.

The act of October 9, 1940 (54 Stat. 1061), provides that every claim or demand cognizable by the General Accounting Office "shall be forever barred unless such claim \* \* \* be received in said office within 10 full years after the date such claim first accrued." The act further provides that whenever any claim so barred shall be received in the General Accounting Office, it shall be returned to the claimant. with a



copy of the act, and such action shall be a complete response without further communication. Mr. Coppinger's claim is subject to that statute and, accordingly, it was returned to him on September 4, 1957, with a copy of the act. In view of the return-of-claim provisions of the act we make no attempt to determine the validity of barred claims and the information presently before us does not establish that Major Coppinger's claim would be for allowance on its merits. H.R. 9432 would waive in his case the provisions of the 1940 barring act and grant him an additional period of time in which to file a claim for consideration on its merits.

Major Coppinger's claim is but one of many claims which are subject in whole, or in part, to the provisions of the 10-year statute of limitations and we see nothing in his claim which specially distinguishes it from such other barred claims. If the Government's financial transactions are to be conducted with any assurance that after the records have been destroyed under authorized record disposal procedures it will not be faced with claims based on such records, it should be able to rely completely on the provisions of such statute where applicable. The enactment of legislation which waives the statute in any situation establishes an undersirable precedent for all affected persons to seek similar legislation in their favor and could lead eventually to the undermining of the salutary principle of limitation of the time within which claims against the United States may be filed.

We do not recommend favorable consideration of H.R. 9432.

Sincerely yours,

JOSEPH CAMPBELL,  
*Comptroller General of the United States.*



